

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

United States of America,

Case No. 3:05CR744

Plaintiff

v.

ORDER

William C. Davis,

Defendant

This is a criminal case in which I overruled the defendant's motion, which he filed under Fed. R. Civ. P. 60(b) for correction of his 188 month sentence, imposed following his plea of guilty to multiple counts arising from his operation of a Ponzi scheme. (Doc. 138). The basis for my denial of that motion, which sought recomputation of the loss/restitution amount, was the inapplicability of the Civil Rules in a criminal case.

Now pending is the defendant's motion for reconsideration, which he styles as being brought under 28 U.S.C. § 2255. (Doc. 140). In that motion he again raises the same contention relating to alleged miscomputation of the loss/restitution amount at the time of his original sentencing.

Whether viewed as a motion to reconsider or as a 2255 petition, his request is without merit.

First: not having had jurisdiction to grant relief under the Civil Rules, I can have none to review a motion to reconsider that decision.

Second: the defendant's plea of guilty included a waiver of his right to challenge either his conviction or sentence (provided that his sentence did not exceed the statutory maximum—which it did not). The defendant having waived his right to maintain any such challenge, I cannot and will not entertain his demand for relief.

It is, accordingly

ORDERED THAT the defendant's motion for reconsideration (Doc. 140) be, and the same hereby is denied.

An appeal from this decision would entirely be without merit and shall not be taken without prepayment of the requisite filing fee.

I decline to issue a certificate of appealability re. any putative claim under 28 U.S.C. § 2255.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge